

Mail Stop Interference  
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Paper 1

Filed 3 March 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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HENRIK S. **OLSEN** and STEVEN M. RUBEN  
Junior Party  
(Application 10/335,125)

v.

SHUJI HINUMA, SHOJI FUKUSUMI, and CHIEKO KITADA  
Senior Party  
(Patent 7,074,761)

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Patent Interference No. 105,676  
(Technology Center 1600)

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**DECLARATION - Bd.R. 203(b)<sup>1</sup>**

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

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<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

### **Part B. Judge managing the interference**

Administrative Patent Judge Sally Gardner Lane has been designated to manage the interference. Bd. R. 104(a).

### **Part C. Standing order**

A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this DECLARATION. The STANDING ORDER applies to this interference.

### **Part D. Initial conference call**

A telephone conference call to discuss the interference is set for **2:30 p.m. on 21 April 2009** (the Board will initiate the call).

No later than **four business days** prior to the conference call, each party shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

### **Part E. Identification and order of the parties**

#### Junior Party

Named Inventors:       Henrik S. Olsen  
                                  Gaithersburg, MD  
  
                                  Steven M. Ruben  
                                  Olney, MD

Involved Application: 10/335,125, filed 02 January 2003.

Title: CORTISTATIN POLYPEPTIDES

Assignee: Not available

Senior Party

Named Inventors: SHUJI HINUMA,  
Tsukuba, JAPAN  
  
SHOJI FUKUSUMI  
Tsukuba, JAPAN  
  
CHIEKO KITADA  
Sakai, JAPAN

Involved Patent: 7,074,761, issued 11 July 2006, from application  
09/207,168, filed 7 December 1998.

Title: PEPTIDES AND PRODUCTION AND USE THEREOF

Assignee: Takeda Chemical Ind., Ltd.

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party is responsible for initiating settlement discussions. SO ¶ 126.1.

**Part F. Count and claims of the parties**

**Count 1**

An isolated cortistatin polypeptide comprising the sequence described by  
residues 58 to 86 of SEQ ID NO: 2 of Application 10/335,125

or

SEQ ID NO: 4 of Patent 7,074,761.

The claims of the parties are:

Olsen: 14-39 and 49-54

Hinuma: 1-11

The claims of the parties which correspond to Count 1 are:

Olsen: 14-39 and 49-54

Hinuma: 11

The claims of the parties which do not correspond to Count 1, and therefore are  
not involved in the interference, are:

Olsen: None

Hinuma: 1-10

The parties are accorded the following benefit for Count 1:

Olsen: 09/775,827, filed 05 February 2001, issued as Patent  
6,524,826 on 25 February 2003;

09/001,472, filed 31 December 1997, issued as Patent  
6,232,100 on 15 May 2001;

60/037,386, filed 7 February 1997; and

60/033,980, filed 31 December 1996.

Hinuma: PCT/JP97/01911, filed 7 December 1987, based on priority

JP 8/272422, filed 15 October 1996;

JP 8/247710, filed 19 September 1996; and

JP 8/146052, filed 07 June 1996.

**Part G. Heading to be used on papers**

The following heading must be used on all papers filed in this interference, see  
SO & 106.1.1:

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#### **Part H. Order form for requesting file copies**

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

/Sally Gardner Lane/  
Administrative Patent Judge

Enc:

Copy of STANDING ORDER  
Form PTO-850  
Copy of claims of 10/335,125  
Copy U.S. Patent 7,074,761

Revised 3 January 2006

cc (via overnight delivery):

Attorney for Olsen:

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Intellectual Property Dept.  
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Rockville, MD 20850

Attorney for Hinuma:

Edwards Angell Palmer & Dodge LLP  
111 Huntington Avenue  
Boston, MA 02199